



A BILL FOR AN ORDINANCE

RELATING TO THE ETHICS LAWS.

BE IT ORDAINED by the People of the City and County of Honolulu:

SECTION 1. Findings and purpose.

The purpose of this ordinance is to clarify the application of the City's ethics laws.

SECTION 2. Section 3-6.10, Revised Ordinances of Honolulu 1990 ("Training of officers and employees on standards of conduct"), as amended, is amended by amending subsection (a) to read as follows:

"(a) Each officer or employee shall complete a training program on the standards of conduct established under Article XI of the charter and Article 8 of this chapter.

For purposes of this section, "officer" includes a person who is an "officer" due to membership on a board or commission[.], including the board of water supply and the board of the Honolulu Authority for Rapid Transportation. The term does not include a member of an advisory committee established under the executive branch pursuant to Section 4-103 of the charter or under the council pursuant to council rule or resolution.

The program shall provide training and information which gives the officer or employee knowledge of at least the following:

- (1) The various standards of conduct applicable to officers and employees[,], and former officers or employees who appear before the officer's or employee's agency;
- (2) Actions which officers or employees must or may take to avoid a violation of a standard of conduct;
- (3) Actions which the officer or employee may take when ordered or requested by a superior officer or employee to violate a standard of conduct;
- (4) Remedies which may be sought by the officer or employee when knowing or suspecting that another person has violated a standard of conduct; and
- (5) Requirements concerning the filing of financial disclosures and conflict of interest disclosures by officers and employees."



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SECTION 3. Section 3-6.____, Revised Ordinances of Honolulu 1990, as amended ("Definitions"), as enacted by Section 2 of Ordinance 12-1, is amended by amending the definitions of "Employee" and "Officer" to read as follows:

""Employee" means the same as defined in Revised Charter Section 13-101.3[.] and shall include employees of the board of water supply and the Honolulu Authority for Rapid Transportation."

""Officer" means the same as defined in Revised Charter Section 13-101.4[.] and shall include officers of the board of water supply and the Honolulu Authority for Rapid Transportation."

SECTION 4. Section 3-8.1, Revised Ordinances of Honolulu 1990, as amended, is amended by amending the definitions of "Agency" and "Officers and Employees" to read as follows:

""Agency" means and includes (1) the City and County of Honolulu; (2) the council and its committees; (3) all departments, offices, boards, commissions, committees; (4) all independent commissions and other similar establishments of the city government; (5) the board of water supply; (6) the Honolulu Authority for Rapid Transportation; and [(5)] (7) any other governmental unit of the city."

""Officers and employees" shall be given the meaning as prescribed in subsections 3 and 4 of Revised Charter Section 13-101[.] and shall include officers and employees of the board of water supply and the Honolulu Authority for Rapid Transportation; provided, that the term "officers and employees" shall also include officers and employees under a personal services contract with the executive branch of the city as prescribed in subsections (f) and (g) of Revised Charter Section 6-1103, or under equivalent contracts with the legislative branch of the city as prescribed in subsection (f) of Revised Charter Section 6-1104[.] and shall also include officers and employees under a personal services contract with the board of water supply and the Honolulu Authority for Rapid Transportation, but excluding independent contractors[; and provided further, that an individual shall not be deemed an officer or employee solely by reason of such person's receipt of a pension, disability payments, or other payments not made for current services]."

SECTION 5. Section 3-8.4, Revised Ordinances of Honolulu 1990 ("Financial disclosures"), as amended, is amended by amending subsection (a) to read as follows:

"(a) Definitions. The following words used in this section shall have the respective meanings in this subsection:



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"Business" includes a corporation, a partnership, a sole proprietorship, a trust or foundation, or other individual organization carrying on a business, whether or not operated for profit.

"Candidate" has the meaning given it by HRS Section 11-191.

"Elective" means all elective offices of the City and County of Honolulu.

"Employee" means all full-time employees of the executive and legislative branches of the City and County of Honolulu and all full-time employees of the board of water supply and the Honolulu Authority for Rapid Transportation who are exempt from civil service pursuant to Revised Charter Sections 6-1103 and 6-1104, but excluding all persons hired under the Comprehensive Employment and Training Act and under Revised Charter Section 6-1103(e), (f), (g), and (h).

"Income" means gross income as defined by Section 61 of the Internal Revenue Code of 1954.

"Officer" has the same meaning as in Section 13-101.4 of the revised charter[.] and shall include officers of the board of water supply and the Honolulu Authority for Rapid Transportation."

SECTION 6. Section 3-8.5, Revised Ordinances of Honolulu 1990 ("Violation-Penalty"), as amended, is amended by amending subsection (d) to read as follows:

"(d) In addition to any other penalty, sanction or remedy provided by law, the ethics commission may impose a civil fine against a former or current officer or exempt employee of the city who has been found by the ethics commission to have violated the standards of conduct in Article XI of the revised charter or this article. For the purposes of this section, "officer" has the same meaning as in Section 13-101.4 of the revised charter and shall include officers of the board of water supply and the Honolulu Authority for Rapid Transportation and "exempt employee" means all employees of the executive and legislative branches of the City and County of Honolulu and all full-time employees of the board of water supply and the Honolulu Authority for Rapid Transportation who are exempt from civil service pursuant to revised charter Sections 6-1103(a)-(d), [and] (i) and (k) and 6-1104(a)-(d), but shall not mean exempt employees in clerical positions or employees within a bargaining unit as described in Section 89-6, Hawaii Revised Statutes.

(1) Where a civil fine has not otherwise been established in this article, the amount of the civil fine imposed by the ethics commission for each



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violation shall not exceed the greater of \$5,000 or three times the amount of the financial benefit sought or resulting from each violation.

- (2) In determining whether to impose a civil fine and the amount of the civil fine, the ethics commission shall consider the totality of the circumstances, including, but not limited to:
- (A) The nature and seriousness of the violation;
 - (B) The duration of the violation;
 - (C) The effort taken by the officer or exempt employee to correct the violation;
 - (D) The presence or absence of any intention to conceal, deceive or mislead;
 - (E) Whether the violation was negligent or intentional;
 - (F) Whether the officer or exempt employee demonstrated good faith by consulting the ethics commission staff or another government agency or an attorney;
 - (G) Whether the officer or exempt employee had prior notice that his or her conduct was prohibited;
 - (H) The amount, if any, of the financial or other loss to the city as a result of the violation;
 - (I) The value of anything received or sought in the violation;
 - (J) The costs incurred in enforcement, including reasonable investigative costs and attorneys' fees;
 - (K) Whether the officer or exempt employee was truthful and cooperative in the investigation; and
 - (L) Any other relevant circumstance.
- (3) No civil fine shall be imposed unless the requirements of Chapter 91 and HRS Section 46-1.5(24), have been met.



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- (4) The ethics commission may recover any civil fines imposed pursuant to this section and may, through the corporation counsel, institute proceedings to recover any civil fines.
- (5) Pursuant to Chapter 1, Article 19, the ethics commission shall have executive authority to add unpaid fines by administrative order to any taxes, fees or charges.
- (6) Notwithstanding Section 3-6.3(c), no civil fine may be imposed under this subsection:
 - (A) If the applicable complaint or request for advisory opinion is submitted more than four years after the alleged violation occurred; or
 - (B) For an investigation commenced by the commission on its own initiative, if the investigation is commenced more than four years after the alleged violation occurred."

SECTION 7. Section 3-8.6, Revised Ordinances of Honolulu 1990 ("Additional standards of conduct concerning campaign contributions and campaign assistance"), as amended, is amended by amending subsection (b) to read as follows:

"(b) For the purpose of this section:

"Campaign assistance" means any service, including donating time or anything of value, to assist:

- (1) The campaign of a person seeking nomination or election to a public office;
- (2) The effort to:
 - (A) Place a question on an election ballot; or
 - (B) Approve or reject a question which is on an election ballot;
- (3) The effort to recall an officer; or
- (4) The activities of a political party or campaign committee by:



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- (A) Serving as a member;
- (B) Soliciting members;
- (C) Performing administrative or other duties;
- (D) Raising funds;
- (E) Campaigning for the political party's or campaign committee's candidate or position on an issue; or
- (F) Volunteering on a campaign or campaign committee.

"Campaign committee" means a "committee" as defined under HRS Section 11-191.

"Campaign contribution" means a "contribution" as defined under HRS Section 11-191.

"Exempt officer or employee" means an officer or employee, including officers and employees of the board of water supply and the Honolulu Authority for Rapid Transportation, exempt from the civil service pursuant to Section 6-1103, Section 6-1104, or any other provision of the revised charter.

"Officer or employee" means:

- (1) An officer or employee within the definition of "officers and employees" under Section 3-8.1; and
- (2) For the purpose of this section, an independent contractor with the city, the board of water supply or the Honolulu Authority for Rapid Transportation, whether or not contracted pursuant to competitive bidding procedures, and including, without limitation, a municipal bond dealer.

"Political party" means the same as defined under HRS Section 11-61."

SECTION 8. Section 3-8.7, Revised Ordinances of Honolulu 1990 ("Gifts to mayor, prosecuting attorney, and appointed officer or employee--Prohibition under certain circumstances"), as amended, is amended by amending subsection (a) to read as follows:



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"(a) For the purpose of this section:

"Appointed officer or employee" means an officer or employee, as defined under Section 3-8.1, other than an elected officer[.] and shall include officers and employees of the board of water supply and the Honolulu Authority for Rapid Transportation. "Appointed officer" includes a member of a board or commission[.] including board members of the board of water supply and the Honolulu Authority for Rapid Transportation.

"Gift" means any gift, whether in the form of money, goods, service, loan, travel, entertainment, hospitality, thing, or promise or in any other form."

SECTION 9. Ordinance material to be repealed is bracketed and new material is underscored. When revising, compiling, or printing this ordinance for inclusion in the Revised Ordinances of Honolulu, the revisor of ordinances need not include the brackets, bracketed material, or the underscoring.



CITY COUNCIL
CITY AND COUNTY OF HONOLULU
HONOLULU, HAWAII

ORDINANCE _____

BILL 49 (2012), CD1

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SECTION 10. This ordinance shall take effect upon approval.

INTRODUCED BY:

Ann Kobayashi

DATE OF INTRODUCTION:

May 31, 2012
Honolulu, Hawaii

Councilmembers

APPROVED AS TO FORM AND LEGALITY:

Deputy Corporation Counsel

APPROVED this _____ day of _____, 2012.

PETER CARLISLE, Mayor
City and County of Honolulu